IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

F.A.O. No.660 of 2006
Date of decision: 29.8.2006

Om Parkash.

..... Appellant

Versus

M/S United India Insurance Company and others.

..... Respondents

CORAM : Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri R.S.Manhas, Advocate for the appellant.
Shri D.R.Bansal, Advocate for respondent no.1.

....

Mahesh Grover,J.

The present F.A.O. has been filed by the owner of the offending vehicle assailing award dated 27.10.2005 passed by the Motor Accident Claims Tribunal, Faridabad (for short, `the Tribunal') in M.V.A. Petition No.59 of 12.6.2002.

A two- fold challenge has been made by the appellant to the aforesaid award. The first contention that has been raised is that deceased-Sunder was a cleaner of the truck in question and he was travelling in the vehicle when the accident took place causing his death. In view of this, it has been pleaded that the deceased could not have been held to be a gratuitous passenger and, therefore, the owner could not have been made liable to pay the compensation and rather, the Insurance Company ought to have been fastened with the liability of satisfying the impugned award. The

second contention raised by the appellant is that the amount of compensation awarded to the claimants is excessive as it was not proved on the record that the deceased was working as a mechanic.

We have heard learned counsel for the parties and perused the record. In our opinion, the contentions raised by the appellant deserve to be rejected. The appellant, while contesting the claim petition, filed his written statement in which it was denied that the accident was caused on account of rash and negligent driving of the truck in question. It was also denied that deceased-Sunder and one Sumer Singh were going in the offending vehicle. In view of this denial, the plea that has been now raised by the appellant that deceased-Sunder was a cleaner on the truck in question and was not a gratuitous passenger falls flat on its face. The contention of the appellant is also belied from the fact that the F.I.R. was registered against the driver of the truck in question. Therefore, the Tribunal has rightly held that the deceased-Sunder was a gratuitous passenger on the offending vehicle and consequently, the Insurance Company has been absolved from the liability to pay the compensation to the claimants. The appellant failed to substantiate his plea in view of the categorical denial that he had made in the pleadings in the first instance. Thus, the finding of the Tribunal on this aspect of the matter cannot be faulted.

In so far as the second contention raised by the appellant qua the amount of compensation awarded is concerned, the same is also devoid of any merit. Even though, it was pleaded by the claimants that the deceased was a motor mechanic, yet, the Tribunal has taken Rs.2500/- per month as his income, i.e., of an unskilled worker. The dependency was also assessed as 2/3rd of the income of the deceased and the multiplier of `16' was adopted

to arrive at a compensation figure of Rs.3,20,000/-. Rs.10,000/- were awarded on account of expenses for funeral etc. Therefore, we are of the considered view that the amount awarded is not excessive by any standards.

On the basis of the above discussion, we find no reason to interfere with the impugned award and the appeal being devoid of any merit is dismissed.

(Mahesh Grover)
Judge

August 29,2006
"SCM"

(Uma Nath Singh)
Judge